



AGENDA  
of the  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY 18 DECEMBER 2019

at

Murrindindi Shire Council  
Council Chamber  
Perkins Street  
Alexandra

6.00 pm

\*\* Audio recordings of all Council meetings are taken by Council's Governance Officers and published on Council's website. (Resolution of Council 23 January 2019)

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**1. PLEDGE AND RECONCILIATION STATEMENT****2. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE****3. COMMUNITY RECOGNITION****4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST****5. CONFIRMATION OF MINUTES**

- 5.1 Minutes of the Ordinary Meeting of Council held on 27 November 2019.  
Minutes of the Confidential Meeting of Council held on 27 November 2019.  
Minutes of the Special Meeting of Council held on 4 December 2019.

**Officer Recommendation**

That Council confirm the following:

1. Minutes of the 27 November 2019 Ordinary Meeting of Council
2. Minutes of the 27 November Confidential Meeting of Council, and
3. Minutes of the 4 December Special Meeting of Council.

**6. PETITIONS****7. PUBLIC PARTICIPATION TIME****7.1 OPEN FORUM****7.2 QUESTIONS OF COUNCIL****8. OUR PLACE****8.1 SINGLE DWELLING - 2997 BROADFORD – FLOWERDALE ROAD, FLOWERDALE**

Attachment(s): Attachments (refer Attachment 8.1)  
Submissions (distributed to Councillors separately)

Land: 2997 Broadford – Flowerdale Road, Flowerdale  
Proposal: Use and development of a dwelling  
Applicant: J Chambers  
Zoning: Farming  
Overlays: Bushfire Management  
Permit Triggers: The use of land for a dwelling on a lot under 40 hectares in the Farming Zone (Clause 35.07)  
Building and works associated with a Section 2 use in the Farming Zone (Clause 35.07)  
Buildings and works associated with a dwelling under the Bushfire Management Overlay (Clause 44.06)  
Access from a Road Zone Category 1 (Clause 52.29)

## Locality Plan



### Purpose

This report recommends that Council issue a Notice of Decision to Grant a Planning Permit for the use and development of a dwelling at 2997 Broadford – Flowerdale Road, Flowerdale. The application is being reported to Council because one objection has been received for this proposal.

### Officer Recommendation

**That Council issue a Notice of Decision to Grant a Planning Permit for the use and development of a dwelling at 2997 Broadford – Flowerdale Road, Flowerdale, in accordance with endorsed plans, subject to the following conditions:**

1. **Prior to the commencement of works a Land Management Plan is required to be submitted to and approved by the Responsible Authority. Once approved the plan will be endorsed and form part of this permit. The Land Management Plan is to include the following:**
  - a. **A scaled and dimensioned plan showing:**
    - i. **Proposed fencing, including fencing and appropriate gates, located to avoid vegetation impacts**
    - ii. **Vegetation protection zone, location of the domestic zone (including proposed driveway, dwelling, outbuilding and effluent disposal area)**
    - iii. **Location of the dam**
    - iv. **Contours of the land the natural drainage lines which run through the land**
    - v. **Existing and proposed access including details relating to the vehicle crossing of the drainage lines**
    - vi. **All new development located outside of the Tree Protection Zones of existing vegetation demonstrated on the plans**
  - b. **Details relating to:**
    - i. **Proposed staging for the establishment of farm infrastructure, including the fencing and preparation works to be established prior to the occupation of the dwelling on the land**

- ii. **Management and eradication programs for weeds and pest animals.**
  - iii. **Vegetation planting and weed control within Vegetation Protection Zone**
  - c. **A schedule of works to implement the plan requirements over a five year period.**
2. **The property is to be managed in accordance with the endorsed Land Management Plan to the satisfaction of the Responsible Authority on a continuing basis. This condition continues to have force and effect after the development approved by this permit is complete**
  3. **The use and development allowed under this permit must be sited and constructed in accordance with the endorsed plan/s and must not be altered without the written consent of the responsible authority**
  4. **The permit shall expire if the development hereby permitted is not completed and the use commenced within two years of the date hereof, or any extension of such period the Responsible Authority may allow in writing. A request for an extension of time may be made before or within six months after the permit expiry date, where the use of development allowed by the permit has not yet commenced, or within 12 months after the permit expiry date, where the development allowed by the permit lawfully commenced before the permit expired**
  5. **A copy of this planning permit must be provided to any new land owner**
  6. **The external materials of the building/s allowed under this permit, including the roof, must be constructed of materials that are of muted colours. No materials having a highly reflective surface must be used, including unpainted aluminium, zinc or similar materials**
  7. **On the construction of the dwelling a water system shall be provided to accommodate a total minimum of 45,000 litres for domestic purposes.**

#### **Engineering**

8. **All stormwater and surface water discharging from the building and works must be conveyed to a point of discharge, approved by the relevant authority. No stormwater discharge from downpipes or overflow from storage tank and surface water shall be directed or caused to be directed in a concentrated form that will cause erosion and or adverse effects within the site or to adjoining land or properties**

The approved works must not cut off natural drainage to adjacent properties
9. **Before the building is occupied, all internal access roads must be constructed, formed and drained to avoid erosion and to minimise disturbance to natural topography of the land to the satisfaction of the responsible authority**
10. **The internal access road to the building must be constructed to a size and standard satisfactory to the responsible authority to provide all weather access for emergency service vehicles**
11. **The works must include the provision of suitable pavement material of at least 3.5 metres in width with 0.5m side clearances and 4 m vertical clearance and designed to carry a vehicle weighing at least 15 tonnes.**

#### **Environmental Health**

12. **All wastewater is to be disposed of, contained and treated onsite in accordance with Council requirements, in conjunction with the Environment Protection Authority. No effluent must not discharge directly or indirectly to an adjoining property, street or any water course, water storage or dam. Sufficient land must be set aside and kept available for the purpose of effluent disposal.**

**Country Fire Authority:**

13. **The Bushfire Management Plan (prepared by Chantal Daniels, dated 01/11/2019) must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority**
14. **The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

**Regional Roads Victoria**

15. **Only one access will be permitted from the subject land to the Broadford Flowerdale Road as shown on the plan appended to the application**
16. **Prior to the occupation of the dwelling, the access must be constructed and sealed in accordance with VicRoads standard drawing SD2066 Typical Rural Driveway Access to Residential Properties Type C to the satisfaction of and at no cost to the Roads Corporation**
17. **The driveway must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (eg. by spilling gravel onto the roadway).**

**NOTATIONS**

1. **A permit to install a new septic system will be required from Council along with all details of proposed new septic system and wastewater field**
2. **This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.**

**Background****The land and surroundings**

The subject land is approximately 7.64 hectares (ha) in area located along the eastern side of Broadford-Flowerdale Road. The property is developed by way of two sheds. There is a dam on the western edge of the property. The land inclines from the Broadford-Flowerdale Road boundary. The property is partly cleared with significant patches of remnant native vegetation. The property is currently used for horse grazing.

The property to the north is 33 hectares (ha) and contains a single dwelling. The property to the east is 77 hectares (ha) and contains a single dwelling. Land to the west of Broadford-Flowerdale Road is zone Rural Living. These properties are of similar size to the subject site and contain single dwellings. The properties to the south are of similar size and contain single dwellings.

**The proposal**

The application seeks planning approval to use and develop the land for a dwelling.

The proposed 3-bedroom dwelling is single storey, timber construction with colorbond roof. The proposed dwelling would be setback 46.5 metres from the nearest boundary (north), 164.7 metres from the eastern boundary, 146.4 metres from the southern boundary and 209.5 metres from the western road frontage. The nearest existing dwelling to the proposed dwelling is located approximately 150 metres to the south.

The land is intended to be used for the grazing of 5 ponies. The ponies are part of the owners business where they are taken to children's parties for entertainment and rides. The owner has managed the land by removing pests and weeds and replanting native plants. The owner submits that a dwelling is required on the land to enhance the agricultural use and land management practices.

A written statement addressing the Farming Zone, a Land Capability Assessment and a Bushfire Management Statement were provided with this application.

#### Public notification

Notice of the application was provided in the form of letters to adjoining, opposite and nearby property owners and occupiers. At the end of the notice period, three submissions were received with two supporting the proposal and one objecting to the proposal.

The grounds of objection are summarised below:

- Land well below 40 hectares in a farming area
- Application based on need to travel from 30 Pheasant Creek Road to look after 5 horses. Applicant has been at Pheasant Creek since 2014 and has not complained that this 'daily routine' is difficult or onerous
- Application has not demonstrated how the dwelling would 'support and enhance agriculture'
- The use does not justify the need for a dwelling as the business is running now without the dwelling
- Application has not shown that an on-site presence of a dwelling is necessary
- Applicant has not complied with Clause 35.07-5 (Application requirements for dwellings)
- Proposal is really wanting a hobby farm in a Farming Zone, which is not permitted
- Highlights relevant VCAT cases and notes that does not wish to see bad precedents set in the Farming Zone.

The submissions of support from adjoining landowners are summarised below:

- The dwelling will not be visible or impact the amenity of the area
- The additional permanent resident will have a positive impact on the area
- That the applicant has been committed to improving the land, maintaining property fences, reduction of bushfire risk and commitment to the beautification of the road front.

#### Referrals

The application was referred to the Country Fire Authority (CFA) and Regional Roads Victoria (RRV).

The Country Fire Authority consented to the proposal subject to the Bushfire Management Plan being endorsed.

Regional Roads Victoria (RRV) consented to the proposal subject to conditions.

#### **Discussion**

##### State, Regional and Local Policy

Relevant Clauses	Comment
<u>02.03 Strategic Directions</u> <b>Natural Resource Management</b> The agricultural sector in Murrindindi Shire Council is diverse and has potential to expand. Council aims to ensure that the use and development of rural land protects and enhances agricultural potential and the productive capacity of the land and surrounding land. Support	<u>Complies.</u> The proposal includes a written statement that details the proposed and existing agricultural use. The extent of the agricultural activity is limited on the site due to the significant amount of remnant native vegetation.

<p>emerging agricultural industries that are compatible with existing agricultural practices, including horticulture, boutique and niche agriculture farming.</p>	
<p><u>13.02-1L Bushfire Planning</u>                  Locate, design and manage use and development to reduce the risk to human life, property and community infrastructure from bushfire to an acceptable level.</p>	<p><u>Complies.</u>                  Application has been referred and endorsed by the CFA.</p>
<p><u>14.01-1S Protection of Agricultural Land</u>                  Objective: to protect the state's agricultural base by preserving productive farmland.                  Protect productive farmland that is of strategic significance in the local or regional context.                  Consider the compatibility between the proposed or likely development and the existing use of the surrounding land.                  Consider the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.                  Balance the potential off-site effects of a use or development proposal against the benefits of the proposal.</p>	<p><u>Complies.</u>                  The property is currently being used for agricultural purposes.                  The adjoining property to the north is developed with a single dwelling and appears to have been used for animal grazing, however there is minimal potential for the agricultural use on the property to intensify due to the slope and vegetation on the property.                  The use of a dwelling on the subject site would be unlikely to limit the future potential for adjoining land to intensify agricultural production as the natural features of the properties already limit their agricultural potential.                  The use of a dwelling would allow for the land to be better managed in accordance with an endorsed LMP and would improve the landscape, ensuring pest plant and animals are managed appropriately.</p>
<p><u>15.01-6S Design for Rural Areas</u>                  Objective: to ensure development respects valued areas of rural character.                  Ensure that the siting, scale and appearance of development protects and enhances rural character.                  Site and design development to minimise visual impacts on surrounding natural scenery and landscape featured including ridgelines, hill tops, waterways, lakes and wetlands.</p>	<p><u>Complies</u>                  The proposed dwelling is to be sited approximately 210 metres from Broadford - Flowerdale Road and will be visible from the property boundary. The development will not be visible from any nearby dwellings.                  While the dwelling would have been ideally situated at the front of the site, this would have required the removal of native vegetation. The proposed site has a sufficient cleared area to accommodate the dwelling. This siting of the dwelling is also consistent with other properties in the area.                  The dwelling is proposed to be painted muted tones so to limit its impact on the rural character of the area.</p>

Farming Zone (Clause 35.07)

An application for a single dwelling in the Farming Zone is considered under the purpose and decision guidelines. Relevant considerations for this application include:

- *To encourage the retention of productive agricultural land;*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture;*
- *To encourage the retention of employment and population to support rural communities;*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision;*
- *Whether the use or development will support and enhance agricultural production;*
- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land;*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*

It is considered that the proposal meet the above considerations. The proposed dwelling will not adversely affect the agricultural potential and productivity of the subject land or affect any ability of adjoining or nearby land to be used for productive agricultural purposes.



The proposed dwelling is considered to be well sited, taking advantage of a previously cleared site pad, avoiding any drainage lines and will not require the removal of any native vegetation. The dwelling design will blend well with the site and general area. It is considered that the proposed dwelling is satisfactory from a visual perspective as the proposal will not be able to be clearly seen from any other dwelling and would only be partly visible from the property to the south, which has a large setback from the proposal of approximately 150 metres. No detriment is likely to occur as a result of the siting, design and appearance of the dwelling proposal.

The subject site and surrounding properties are limited in their agricultural potential by the slope, size and vegetation on the properties. The proposed development is consistent with development in the area. The proposed dwelling will not fragment the land as it is already fragmented due to historic subdivision. The surrounding sites are unlikely to consolidate with this property as the site is very limited in regards to the capacity to be used for agriculture.

The subject site is currently being managed in an integrated manner, which has considered the environmental values and the agricultural capacity of the site. The grazing of the five ponies will not have a detrimental impact on the site and the owner of the land has already implemented Landcare land management practices such as revegetation, fencing of the waterway and pest management. These works will be formalized through the preparation of an integrated land management plan which will be endorsed as part of the permit. It is considered that the development of the dwelling and the permanent residence on the site will continue to protect and enhance the environmental values of the site while not impacting on the agricultural capacity of the subject site or surround properties.

#### Bushfire Management Overlay (Clause 44.06)

The planning permit application was accompanied by a Bushfire Management Statement, which was referred the CFA. The CFA have provided conditional consent for the proposed dwelling.

#### **Discussion - Issues Raised by Objectors**

##### Allotment size in a farming area

The allotment size for which the dwelling has been proposed is considered reasonable. The area is characterised by smaller lots rural holdings to the south and west. Nearby land to the south and west in the King Parrot Creek valley are predominated by lots in the 3 – 8 hectare range, created either through subdivision or original crown allotment settlement pattern. Larger lots to the east and northeast are typical elevated parcels with remnant native vegetation.

40 hectares is the trigger size for below which a planning permit is required in the Farming Zone. This size does not mean that an application for dwelling cannot be made, assessed, justified on its merits and approved below this 40 hectare size. The *Chadband v Murrindindi SC [2016] VCAT 967 (14 June 2016)* referred to in the submission notes that a dwelling proposal on a lot below 40 hectares in size Farming Zone does not mean that the land cannot be put to a productive agricultural use.

##### Demonstration of the requirement for a dwelling

The proposal is to support an existing use of the land, for which the applicant claims a dwelling is required to enhance the use and management of the land. It is considered that the dwelling proposal is linked to the existing agricultural use on the land and this use and land management will be enhanced through the establishment of a dwelling on the land.

The assertion by the submitter that the applicant does not experience inconvenience in travelling to their property and in managing it from another location is a personal matter and a generalisation that cannot be substantiated. The applicant has submitted that the proposal has been made due to the need to live on the property while managing it, which is considered to be a reasonable and justified need and aspiration.

**Concerns that the issuing of this planning permit will create a precedent**

The proposal will not form a distinct precedent for dwellings in the Farming Zone. Planning decisions are based on a performance based approach where each proposal is considered on its merits. In this case, the proposed dwelling has a direct relationship with an actual, established agricultural use of the land and should be considered on its own unique circumstances.

While it is useful to review previous VCAT decisions as a guide, each proposal is assessed based on its merits. This proposal differs from the *Chadband v Murrindindi SC [2016] VCAT 967 (14 June 2016)* referred to in the submission as this proposal is both for an existing agricultural use and there is a clear link between a dwelling proposal and an existing agricultural use.

**Conclusion**

It is considered that issues raised in the objection can be satisfied and can be further addressed through appropriate conditions in a planning permit. The proposal is considered to be linked to and required for an established agricultural use. The proposal will not adversely affect the agricultural potential and productivity of the land or any ability of adjoining or nearby land to be used for productive agricultural purposes. The proposal meets planning policies and controls and is considered suitable for approval.

**Council Plan/Strategies/Policies**

This report is consistent with the *Council Plan 2017-2021* 'Our Place' strategic objective: 'we will maintain and enhance places to be attractive and liveable, in balance with our natural environment' and 'through good land use planning enhance the liveability, prosperity and rural character of our Shire'.

**Relevant Legislation**

The proposal has been assessed under the provisions of the *Murrindindi Planning Scheme* and the *Planning and Environment Act 1987*.

**Financial Implications and Risk**

There are no financial implications or risks associated with this report.

**Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

**9. OUR PEOPLE****10. OUR PROSPERITY****10.1 GRANTS AND CONTRIBUTIONS**

Attachment: Grants and Contributions - Summary - November 2019 - (refer Attachment 10.1)

**Purpose**

The purpose of this report is to consider the applications made to the November round of the 2019/20 Grants and Contributions Program, specifically:

- recommendations of the Community Grants Assessment Panel
- allocations made by Council officers under delegation for Fee Reduction, Events and Skills and Capacity Building grant streams.

**Officer Recommendation  
That Council:**

**1. award the recommendations of the Community Grants Assessment Panel:**

Application	Reference	Funding Sought	Recommendation
<b>Community Grants</b>			
Yea-Kinglake RSL Sub Branch	CPE-18-19-029	\$5,000	Support in full with a cash grant of \$3300 and fee waivers to the value of \$1700.
<b>Sponsorships</b>			
Koori Kids	CS-18-19-022	\$500	Support in full
BSX (Bicycle Supercross) Inc.	CS-18-19-023	\$4,000	Support in full with a cash grant of \$2681.90 and fee waiver of \$1318.10

**2. note the grants awarded by Council officers under delegation:**

Application	Reference	Funding Sought	Outcome
<b>Fee Reductions</b>			
Rotary Club of Yea	FR-1819-024	Hall Hire	Approved partial funding of \$1215.00 This is a 50% fee reduction. An Event Support Grant of \$2500.00 has been awarded to Rotary Club of Yea - Art Show event in November 2019 also.
<b>Event Support</b>			
Rotary Club of Kinglake Ranges	ES-1819-017	\$3500.00	Supported with conditions: 1. The grant will only be made upon evidence of permits granted by Regional Roads Victoria to facilitate the road closure 2. The grant be made from the Community Projects and Events stream 3. Prior to a grant being made Rotary Club of Kinglake Ranges provides any additional information required by officers.

**Background**

The Grants and Contributions Program provides the opportunity for community groups, not for profit organisations, and businesses to seek funding from Council to support a range of activities and initiatives happening in Murrindindi Shire. There are a range of funding streams under the program including:

- fee reductions (and waivers by exception)
- quick response grants
- sponsorships (including eligible individuals)
- governance and capacity building
- community projects and events
- small and new tourism events
- events of state significance

- business growth or establishment
- industry or economy growth.

Each stream has its own objectives and eligibility criteria. Application assessment is undertaken across three key assessment processes:

- Community Grants Assessment Panel
- Council officer recommendation to Council
- Council officer decision under delegation.

Assessment occurs monthly to meet timeframes described in the Grants and Contributions Policy.

## **Discussion**

### Community Projects and Events

One application was assessed as part of the current round of Community Projects and Events grants.

The Assessment Panel (Panel) has recommended this application be supported in full:

1. The Yea – Kinglake RSL Sub Branch sought a grant to support proposed improvements to the existing entrance of Yea RSL Hall to improve safety. The entry footpath, front porch and entrance way are unsafe and non-compliant creating hazards for users of the hall, particularly older community members.

### Community Sponsorship

Two applications for the Community Sponsorship stream were received in this round. The Panel recommends they be supported:

1. Koori Kids sought a sponsorship to support the running of competitions and activities within schools across Murrindindi to promote and assist in celebrating NAIDOC week.
2. BSX (Bicycle Supercross) Inc. sought a sponsorship including fee waivers to support the BSX2020 Backyard BMX cycling fundraising event for the Royal Children's Hospital.

The following grant application has been awarded under Officer Delegation:

1. Fee Reductions

One application was received and granted under delegation. The Rotary Club of Yea requested a hall fee hire waiver to support the Yea Arts Show.

The Rotary Club of Yea Inc is a service organisation which fundraises to enable financial support for local needs and specific world disaster programmes. The Club is seeking a fee reduction for the Yea Shire Hall to contribute to the Annual Yea Arts Show.

Council Officer decision under delegation is approved for a partial fee reduction of 50% totalling \$1,215 as there were no exceptional circumstances detailed. Additionally, the applicant has applied and been granted funds from the Events Support stream totalling \$2,500 towards the Art Show in the November 2019 grant round.

The following grant application is under assessment for decision under Officer Delegation:

1. Event Support:

One application was received from the Rotary Club of Kinglake Ranges. The Kinglake branch contributes to Murrindindi Community Projects and the Community in general.

They are seeking grant funds to the value of \$3,500 to support the Kinglake Produce & Artisan Market, being held as a Christmas twilight event that aims to:

- bring the local community together, and
- attract tourism and business to Kinglake.

Rotary Club of Kinglake Ranges applied for \$3,500 to specifically cover the cost of traffic management in support of the Kinglake Produce and Artisan Market (Christmas event). There are some issues with the application:

- no permits for the road closure have been issued
- limited detail in the application of the event and its management
- application was made under the Tourism Events Stream, however officers believe it fits better within the Community Projects and Events stream.

However, officers believe that this is a successful event that would be deserving of support by Council. Therefore, the following recommendation is made:

1. the grant will only be made upon evidence of permits granted by Regional Roads Victoria to facilitate the road closure
2. the grant be made from the Community Projects and Events stream.
3. prior to a grant being made Rotary Club of Kinglake Ranges provides any additional information required by officers.

These applications are summarised in the attached summary (Attachment 10.1).

### **Council Plan/Strategies/Policies**

The Community Grants and Contributions Program delivers operational outcomes of the *Council Plan 2017-2021* Our People strategic objective 'to provide a seed funding pool to support community initiated projects' and Our Prosperity strategic objective 'in partnership with the community we will promote an environment in which business and community can thrive'.

The Community Grants and Contributions Program is guided by the Community Grants and Contributions Policy.

### **Relevant Legislation**

There are no legislative considerations to this report.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

### **Community and Stakeholder Consultation**

There has been no formal community consultation with respect to the assessment of this round of Grants and Contributions Program applications.

## **11. OUR PROMISE**

### **11.1 PURCHASE OF 2A MURCHISON STREET, MARYSVILLE**

Attachment(s): Title and Aerial Photo (refer Attachment 11.1)

#### **Purpose**

The purpose of this report is for Council to note the settlement of the purchase by Council of Lot 2 on Plan of Subdivision 221571M, being 2A Murchison Street, Marysville.

**Officer Recommendation:  
That Council**

- 1. note that the purchase by Council of Lot 2 on PS 221571M, being 2A Murchison Street, Marysville, has been settled for an amount that was within the valuation amount provided by Council's valuer and in accordance with a Confidential resolution of Council made on 23 October 2019**
- 2. release a public notice advising the Marysville community that the land has been purchased for use as parkland.**

**Background**

Council at its 23 October 2019 Ordinary Meeting considered the proposed purchase of 2A Murchison Street Marysville as part of the confidential (closed) section of the meeting.

The land comprising 225m<sup>2</sup> was privately owned, and has a development approval for a café and Alfresco dining area, which would take up the majority of the site. The land is zoned Commercial 1 under the Murrindindi Planning Scheme and currently rated as vacant land.

It was listed at a price of \$280,000 with Murchison and Darwin Street frontage, overlooking Steavenson River and Settlers Park, with plans in place for a Café.

Council identified that as vacant land, it provides strong visual amenity to a backdrop of parklands that compliments Marysville's streetscape and its picturesque status as a visitor attraction. Council had concerns that the loss of the visual amenity and awareness of the many community events that occur on the adjoining parklands could be detrimental to the town, if the development of the land was to occur.

The vacant land is not fenced and has been maintained by Council as part of the adjoining parkland since the 2009 Bushfires and the re-alignment of Darwin Street which occurred as part of the rebuild of the Marysville streetscape.

In accordance with its confidential resolution of 23 October 2019, Council purchased the land for an amount that was within the valuation estimate provided by Council's valuer and less than the asking price. Settlement has now occurred and the property is in Council's ownership and will be retained as community parkland.

**Discussion**

The purchase of private land by councils, particularly for creating open spaces, is an acceptable practice, and the market value of a property should not only be assessed in purely economic terms, but rather environmental, social or community benefits, current and future.

The land title in question was created after the 2009 Bushfires as part of the realignment of Darwin Street and is isolated by road reserves on all sides, with Crown Land providing the immediate back ground elements. Council is the Committee of Management for the Crown Land – with the Gallipoli Park Precinct Committee of Management appointed as a Section 86 Special Committee by Council to manage the area on Council's behalf.

A number of community events occur on the area known as Settlers Park to the north of the land, such as Jazz and Blues Weekend, Marysville Community Market, etc. and direct visual access to such events would be jeopardised by a development on the privately owned land.

The purchase of the property at 2A Murchison Street by Council is a sound investment in maintaining this unique picturesque area of Marysville and benefitting the community.

Council will give considerations as to whether a future amendment to the Planning Scheme to rezone the land to a public use is applicable.

**Council Plan/Strategies/Policies**

The report is consistent with the *Council Plan 2017-2021* Our Place strategic objective 'we will maintain and enhance places to be attractive and liveable, in balance with our natural environment' and the strategy 'through good land use planning enhance liveability, prosperity and rural character of the Shire'.

**Relevant Legislation**

Item 3.6.6 of the *Victorian Local Government Best Practice Guidelines* states that contracts for the purchase of land do not attract the requirements of Section 186 of the *Local Government Act 1989* as land is not goods or service. Section 186 relates to giving public notice of the intention to enter into contracts.

Section 20 of the *Subdivision Act 1988* recognises that funds from public open space contributions can be used to purchase land for public recreation or parkland purposes.

**Financial Implications and Risk**

Given Council had available cash reserves to fund this land purchase it was not recommended that a loan be sought. The Council resolved at the 23 October 2019 Meeting that the following reserves be utilised:

- Marysville Community Fund – the Deed relating to the subdivision of the Marysville Village with the Marysville Village Residents Association required Council as from 31 July 2013 to set aside a sum of \$63,531 in a discretionary reserve fund for the purpose of funding projects determined by the Council, for the benefit of the community of Marysville
- Public Open Space Reserve – established in accordance with the requirements of the *Subdivision Act 1988* as a reserve for the purposes of acquiring and embellishing land as open space. \$40,374 specifically relating to subdivisions that have occurred in Marysville was used from this Reserve
- Unexpended Capital Works Reserve – established to collect unallocated savings from capital works projects to support renewal or upgrade of council assets. The balance of funds needed for the purchase price was sourced from this reserve.

**Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

**Community and Stakeholder Consultation**

There was no community consultation with respect to the purchase of this land. It is proposed that a public release be provided to the Marysville community advising that the land has been purchased for use as parkland.

**11.2 FINANCIAL RESERVES POLICY**

Attachment(s): Financial Reserves Policy (refer Attachment 11.2)

**Purpose**

The purpose of this report is to seek Council's approval to adopt the new Financial Reserves Policy and consolidate two existing infrastructure related reserves.

**Officer Recommendation****That Council:**

1. adopt the Financial Reserves Policy as contained in Attachment 11.2

## **2. consolidate the Infrastructure Unexpended Capital Works and New and Expanded Assets reserves into a new Infrastructure Reserve.**

### **Background**

Councils have traditionally used balance sheet reserves as a mechanism to hold funds for specific purposes. Often these reserves are created to meet specific future funding needs. The use of reserves is a prudent method of ensuring council has adequate funds to cover these specific needs.

A review of Council's reserves indicated a lack of sufficient policy direction around the current intent and use of reserve funds. As such, developing a Financial Reserves Policy was included as a Council Plan Priority Action item for 2019/20 to support Council's obligation to provide sound financial management.

### **Discussion**

The draft Financial Reserves Policy is shown in Attachment 11.2.

The purpose of the Financial Reserves Policy is to:

- (a) ensure that Council's reserves are established in a way that accounts for income that has been received from specific sources for a future application; and
- (b) establish requirements around the creation of reserves, transfer to reserves and subsequent expenditure of funds from these reserves.

The key elements of the policy include:

- definitions of financial reserves including the difference between statutory and discretionary reserves
- when a reserve (either statutory or discretionary) can be created and conversely, when one should not be created (e.g. balance of reserve will not reach \$20,000)
- examples of income sources that are transferred to individual reserves
- that transfers to or from reserves be approved by Council as part of the annual budget processes or at any other time by Council resolution
- that reserves are required to be 100 per cent cash backed unless there is a Council resolution to borrow from an internal reserve to fund a specific project or initiative, and that Council's bank balance must be maintained at a level greater than the balance of statutory and discretionary reserves
- that reserves may go into a negative balance under certain conditions.
- terms of reference governing the use of the Public Open Space reserve and Infrastructure discretionary reserve as appendices The terms of reference:
  - establish a clearer framework on how these reserves operate
  - provide legislative context and priorities for consideration of projects/initiatives.
  - require that projects/initiatives to be funded from a reserve must be linked to Council approved strategies (e.g. Recreation and Open Space Strategy, asset management policy and strategies)
  - reinforce that the reserves are to be reviewed annually and endorsed by Council as part of the annual budgeting process.

### Infrastructure reserve

The review of Council's reserves identified that the *Infrastructure Unexpended Capital Works reserve* and the *New and Expanded Assets reserve* serve similar purposes to fund future infrastructure related projects.

The *Infrastructure Unexpended Capital Works* reserve was established in 2013 for the transfer of any unallocated savings from capital works projects annually to assist in funding future asset renewal requirements.



The *New and Expanded Assets* reserve was established to support the funding of operations and maintenance of new and expanded assets following the 2009 bushfires. Approximately \$1.2 M was allocated in annual budgets by council each year for this purpose with any unexpended funds allocated to the Reserve. These budget allocations have been significantly reduced from \$1.2 M and contributions to this reserve have ceased.

It is recommended that these reserves are consolidated into one Infrastructure Reserve. The use of this reserve will be governed by the specific *Terms of Reference* which is included in the policy.

### **Council Plan/Strategies/Policies**

This report relates to the *Council Plan 2017-2021* strategy under Our Promise to maintain Council's financial sustainability through sound financial and asset management, and completes the key focus area in the *2019/20 Priority Action Plan* to develop a Financial Reserves Policy under action 4.6.3 to review the role of Council's discretionary financial reserves to ensure it is best aligned with Council's longer term objectives.

### **Relevant Legislation**

There are no direct legislative requirements or guidance in the Accounting Standards, the *Local Government Act* or Local Government Regulations relating to Council Financial Reserves, with the exception of Developer Contributions (Public Open Space) which is legislated under Section 18 of the *Subdivision's Act 1988*.

Movements in reserves are however required to be recorded in the Council's Financial Statements – "Statement in changes in Equity" and related notes.

### **Financial Implications and Risk**

Council's Strategic Resource Plan is framed around having sufficient cash reserves to cover restricted assets which are primarily developer open space contributions, other defined 'cash generated' reserves, long service entitlements and refundable trust and deposits.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

### **Community and Stakeholder Consultation**

Community and stakeholder consultation is not required for the discussion of this issue.

## **11.3 FRAUD AND CORRUPTION CONTROL POLICY REVIEW**

Attachment(s): Fraud and Corruption Control Policy (refer Attachment 11.3)

### **Purpose**

This report seeks Council's endorsement of the revised Fraud and Corruption Control Policy.

### **Officer Recommendation**

**That Council endorses the Fraud and Corruption Control Policy as contained in Attachment 11.3.**

### **Background**

Council adopted the "Fraud Prevention & Control Policy" in September 2014.

In September 2016 an internal audit was undertaken into Council's fraud and corruption control framework. Although the audit found no issues of a high risk nature, it was found that current controls in place needed strengthening, including requirements to:

- appoint a fraud control officer;
- conduct organisation-wide fraud risk assessments on a periodic basis;
- develop a fraud and corruption incident register; and
- provide fraud awareness training at least every two years.

This report considers a recent review of Council's Fraud and Corruption Control Policy which is the primary document governing Council's approach to fraud and corruption control initiatives. The review was informed by the recommendations of the internal audit conducted in 2016, VAGO Report into Fraud and Corruption Control in Local Government 2019 and IBAC Local Government Integrity Framework Review 2019.

In the interest of best-practice, the updated policy has been benchmarked against equivalent policies from other councils, and it was also reviewed by Council's current internal auditor and Council's Audit and Risk Advisory Committee.

### **Discussion**

Fraud and corruption are serious issues that can impact on any organisation, and Local Government is no exception. According to the Australian Institute of Criminology fraud is the most costly type of crime, with estimated losses in the region of \$8.5 billion per year. To protect the organisation from this threat, it is fundamental that Council continues to create a culture of integrity that is supported by clear policies, procedures and risk management initiatives.

The policy reinforces Council's zero-tolerance position towards fraudulent and corrupt behaviour with a clearer, realigned policy structure by Prevention, Detection and Investigation stages according to the Australian Standard.

Although the responsibility to prevent fraud and corruption sits with everyone in the organisation, the updated policy outlines redefined roles and responsibilities at every level. This includes changes in the reporting and assessment for investigation which is proposed to rest with the Director Corporate & Shared Services to increase protection of individuals providing information.

The policy strengthens Council's internal controls and prevention strategies with the inclusion of:

- a new fraud risk assessment process to assist departments in the detection and response initiatives on a regular basis
- fraud awareness programs tailored to each department's risks
- clearer processes for reporting suspected incidents, and
- a new fraud and corruption incident register to record any suspected activities.

The policy also includes Council's obligations under the updated *Public Interest Disclosure Act 2012* (formerly *Protected Disclosures Act*) in the event an allegation meets the requirements under the new Act effective 1 January 2020. This is also reflected in the selection of the Director Corporate & Shared Services as the first point of contact for reporting and assessment, this synergy allows for assessment on whether the person reporting is eligible to receive the protections for "whistle-blowers" provided under the *Public Interest Disclosure Act 2012*.

### **Council Plan/Strategies/Policies**

This report relates to *Council Plan 2017-2021 Our Promise* strategic objective to ensure we deliver the best possible outcomes in all that we do.

### **Relevant Legislation**

The endorsement and consequent implementation of this policy will enable Council to meet its obligations under the *Local Government Act 1989*, which requires Councils to develop and maintain internal control systems.

**Financial Implications and Risk**

The policy addresses the recommendations from the 2016 internal audit. All fraud and corruption awareness initiatives, associated risk assessment and mitigation strategies arising from the endorsement of this policy will be delivered within Council's existing resources.

**Conflict of Interest**

There are no declared conflict of interest by Council officers in relation to this report.

**Community and Stakeholder Consultation**

Community consultation was not required in relation to the review of this policy.

**11.4 COUNCIL POLICY REVIEW**

Attachment(s):       Asset Disposal Policy (refer Attachment 11.4a)  
                              Special Charge Scheme for Infrastructure Works Policy (refer Attachment 11.4b)  
                              Arts & Culture Policy (refer Attachment 11.4c)

**Purpose**

The purpose of this report is to recommend the adoption of three recently reviewed policies and the rescission of four policies which are no longer required to be in place.

**Officer Recommendation****That Council:**

- 1. adopt the Asset Disposal Policy as contained in Attachment 11.4a**
- 2. adopt the Special Charge Scheme for Infrastructure Works Policy as contained in Attachment 11.4b**
- 3. adopt the Arts & Culture Policy as contained in Attachment 11.4c**
- 4. rescind the Recreation & Leisure Policy**
- 5. rescind the Youth Services Policy**
- 6. rescind the Electronic Gaming Machines Policy**
- 7. rescind the Preparation of 173 Agreements Policy.**

**Background**

Council has committed to ensuring that all Council Policies are up to date and are reviewed in a timely manner. As part of this commitment officers have reviewed seven policies and are recommending three for adoption and four for rescission.

**Discussion****Policies for Adoption****Asset Disposal Policy (Attachment 11.4a)**

The attached Asset Disposal Policy has been reviewed with a focus on ensuring clearer interpretation and understanding.

The major policy changes are:

- inclusion of Fleet Vehicles;
- clearer procedure for the sale of plant and equipment;
- dumping of assets now includes options for recycling rather than just landfill; and
- inclusion of options to donate surplus or redundant assets to a community group or not-for-profit organisation with the approval of the CEO.

**Special Charge Scheme for Infrastructure Works Policy (Attachment 11.4b)**

The attached Special Charge Scheme for Infrastructure Works Policy has been reviewed with a focus on ensuring easier interpretation. Section 163 of the *Local Government Act 1989* outlines the required process, therefore the procedure has not changed, however consultation parameters have been included dependent on the size and complexity of the works.

**Arts & Culture Policy (Attachment 11.4c)**

The Arts and Culture Policy was reviewed, including input from, Regional Arts Victoria. The Policy has remained largely unchanged as Council's position of support for arts and cultural pursuits has remained constant, however sections have been updated to reflect the new organisational structure and services and the current Council Plan.

**Policies for Rescission****Recreation & Leisure Policy**

The recently adopted Recreation and Open Space Strategy clearly articulates Council's commitment and direction for the next 10 years and therefore the Recreation & Leisure Policy is no longer required.

**Youth Services Policy**

The Youth Services Policy is no longer required as Council's commitment to young people is reflected in the Council Plan and the Municipal Public Health and Wellbeing Plan. Council does not have a specific policy for the service provision provided for any other age group.

**Electronic Gaming Machines Policy**

The Electronic Gaming Machines Policy is no longer required as Council's position and planning guidelines regarding electronic gaming machines across Murrindindi Shire are now included in the Murrindindi Planning Scheme.

**Preparation of Section 173 Agreements Policy**

As Council requests all applicants use a Council endorsed solicitor in the preparation of Section 173 Agreements this Policy is no longer relevant.

**Council Plan/Strategies/Policies**

This Policy update supports the *Council Plan 2017-2021 Our Promise* strategic objective to ensure we deliver the best possible outcomes in all that we do.

**Relevant Legislation**

Council Policies are adopted to either support Council's strategic direction, obligation to the community or display our commitment to legislated responsibilities. Each policy references the legislated responsibilities where applicable.

**Financial Implications and Risk**

Ensuring policies are reviewed in a timely manner and reflect Council's legislated obligations is a key control in managing risk, both strategic and operational.

**Conflict of Interest**

There are no declared conflict of interest by Council officers in relation to this report.

**Community and Stakeholder Consultation**

The policies outlined in this report did not require external consultation as part of the review.

**12. NOTICES OF MOTIONS****13. MATTERS DEFERRED FROM PREVIOUS MEETING****14. URGENT BUSINESS****15. COUNCILLOR REPORTS****15.1 CR SANDICE MCAULAY****15.2 CR JACKIE ASHE****15.3 CR ERIC LORDING****15.4 CR CHARLOTTE BISSET****15.5 CR REBECCA BOWLES****15.6 CR MARGARET RAE****15.7 CR LEIGH DUNSCOMBE – MAYORAL REPORT****16. CHIEF EXECUTIVE OFFICER REPORT****17. ASSEMBLIES OF COUNCILLORS****Purpose**

This report presents the records of assemblies of Councillors for 23 November 2019 to 11 December 2019, for Council to note in accordance with Section 80A of the *Local Government Act 1989* (the Act).

**Officer Recommendation**

**That Council receives and notes the record of assemblies of Councillors for 23 November 2019 to 11 December 2019.**

**Background**

In accordance with Section 80A of the Act, written assemblies of Councillors are to be reported at an Ordinary Meeting of Council.

An assembly of Councillors includes advisory committees, where one or more Councillors were present, along with planned or scheduled meetings involving at least half of the Councillors and a Council officer.

A Councillor who has a conflict of interest at an assembly of Councillors, must disclose the conflict of interest, and leave the meeting while the matter is being discussed.

**Discussion**

A written record is required to be kept of every assembly of Councillors, including the names of all Councillors and staff at the meeting, a list of the matters considered, any conflict of interest disclosed by a Councillor, and whether a Councillor who disclosed a conflict left the meeting.

The following summary details are for 23 November 2019 to 11 December 2019:

Meeting Name/Type	Briefing
Meeting Date:	27 November 2019
Matters Discussed:	1. 707 Murrindindi Road
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, S Brown, V Albicini, T Carter, K Girvan, N Stewart, M Schreuder, N Grey, C Lintott
Conflict of Interest Disclosures: Nil	

Meeting Name/Type	Council Pre-Meet
Meeting Date:	27 November 2019
Matters Discussed:	<ol style="list-style-type: none"> <li>2. Proposed Combined Permit and Amendment – Amendment C70, Murrindindi Planning Scheme and Planning Permit 2019/192</li> <li>3. Use and Development of Land for the Purpose of a Dwelling – 511 Falls Road, Strath Creek</li> <li>4. Response to Petition – Public Toilet Facility at Kinglake Memorial Reserve</li> <li>5. Response to Petition - Extension of Kerbside Waste Service Along Brookes Cutting Road, Alexandra/Koriella</li> <li>6. Response to Petition – Sealing of Brooks Cutting Road, Alexandra/Koriella</li> <li>7. Response to Petition – Condition of Gordons Bridge Road, Castell</li> <li>8. Central Enrolment Feasibility Study</li> <li>9. Tourism and Events Strategy</li> <li>10. Grants &amp; Contributions Program</li> <li>11. Proposed Community Local Law 2019</li> <li>12. Transfer of Land at 174 Grant Street, Alexandra to the Alexandra Scout Group</li> <li>13. Yea Saleyards Fee Structure</li> <li>14. Election Period Policy Review</li> <li>15. Instrument of Appointment and Authorisation</li> <li>16. Tender – Sealed roads - Rehabilitation Program 2019/20</li> <li>17. Tender 19/15 – Footpath Renewal Program – 2019/20</li> </ol>
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, S Brown, V Albicini, T Carter, C Lintott, K Girvan, N Stewart, N Grey, N McNamara, M Schreuder
Conflict of Interest Disclosures: Nil	

Meeting Name/Type	Council Pre-Meet
Meeting Date:	4 December 2019
Matters Discussed:	18. Use and Develop the Land for the Purpose of a Residential Hotel and Restaurant Including the Sale and Consumption of Liquor and a Reduction in Car Parking Requirements, 707 Murrindindi Road, Murrindindi
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae,
Council Officer Attendees	C Lloyd, M Chesworth, S Brown, V Albicini, T Carter, N

	Stewart, K Girvan, M Schreuder
Conflict of Interest Disclosures: Nil	
Meeting Name/Type	Briefing
Meeting Date:	11 December 2019
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Aged and Disability Review</li> <li>2. Grants and Contributions Program</li> <li>3. Presentation by Community Hub at Taggerty (CH@T)</li> <li>4. Single Dwelling - 2997 Broadford – Flowerdale Road, Flowerdale</li> <li>5. Council Policies</li> <li>6. Confidential Item – Contractual Matters (S89(2)(d))</li> <li>7. Confidential Item – Personal Hardship of a Ratepayer (S89(2)(b))</li> <li>8. Confidential Item – Proposed Development (S89(2)(c))</li> </ol>
Councillor Attendees:	Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, S Brown, V Albicini, T Carter, M Schreuder, C Lintott, G Haylock, N McNamara, J Russell, J Carns, M Schreuder, C Gartland
Conflict of Interest Disclosures: Nil	

### Council Plan/Strategies/Policies

This matter is consistent with the *Council Plan 2017-2021* Our Promise strategy to ‘expand our communication’.

### Relevant Legislation

For full details of Council’s requirement for assemblies of Councillors, refer to Section 80A of the *Local Government Act 1989*.

### Financial Implications and Risk

There are no financial or risk implications.

### Conflict of Interest

Any conflicts of interest are noted in the assembly of Councillors tables listed above.

## **18. SEALING REGISTER**

File Reference	Date Seal Affixed	Description of Documents	Signatures of Persons Sealing
SF/779	11 December 2019	Kinglake Rebuilding Advisory Centre Lease between Murrindindi Shire Council and Parks Victoria	Craig Lloyd Cr Leigh Dunscombe

### Officer Recommendation

**That the list of items to which the Council seal has been affixed be noted.**

## **19. CONFIDENTIAL ITEMS**

*The Local Government Act 1989* section 89(2) allows Council to resolve to close a meeting to the public to consider confidential information relating to any of the following matters:

- (a) personnel matters
- (b) the personal hardship of any resident or ratepayer

- (c) industrial matters
- (d) contractual matters
- (e) proposed developments
- (f) legal advice
- (g) matters affecting the security of Council property
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person
- (i) a resolution to close the meeting to members of the public.

Where possible Council will resolve to make public any decision it makes in a closed meeting where the resolution does not disclose confidential information. There may be occasions where Council cannot make its decision public.

The report on the Rates Debt Process – Section 181 is being considered in the closed part of the meeting because it is considered under S89(2)(b) the personal hardship of a resident or ratepayer.

The report on the Tender 19/22 – Rubicon Road, Rubicon – Route Improvement, is being considered in the closed part of this meeting because it is considered under S89(2)(d) contractual matters.

#### **Recommendation**

**That Council, in accordance with the *Local Government Act 1989* section 89(2)(b) & (d), resolve to close the meeting to the members of the public:**

- **Rates Debt Process – Section 181**
- **Tender 19/22 – Rubicon Road, Rubicon – Route Improvement**